

Chapter 70 Conditional Use Permits

Sections:

11-70-1:	Purpose
11-70-2:	Burden of Proof
11-70-3:	Administrative Use Permits
11-70-4:	Temporary Use Permits
11-70-5:	Special Use Permits
11-70-6:	Council Use Permits
11-70-7:	Appeals; Expiration and Extensions; Modifications

11-70-1: Purpose

This Chapter describes the process and general requirements applicable to those uses for which a Conditional Use Permit is required. These uses require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties. The purpose of the conditional use permit application process is to evaluate possible adverse impacts and to minimize them, where possible, through the imposition of specific conditions of approval. If adverse impacts cannot be appropriately resolved, the use is not appropriate in that location or configuration.

11-70-2: Burden of Proof

The applicant has the burden of proving that the application meets the Ordinance requirements for granting of any use permit. No structure, facility, or use approved by conditional use permit may be modified, enlarged or expanded, without obtaining an approved modification to the Conditional Use Permit. The application for modification shall be processed as a new conditional use permit application under this Ordinance. The issuance of a Conditional Use Permit may require that the existing development site be brought into substantial conformance with the terms of the [Mesa City Code](#) in effect on the date the use permit is approved, including but not limited to: landscaping, screening, parking, and storm water retention.

11-70-3: Administrative Use Permit

- A. **Administrative Use Permit (AUP).** An AUP is a discretionary written authorization issued through the office of the [Building Official](#) upon a finding that the allowed activity is in conformance with the intent of this Ordinance and may be limited by a specific period of time.

- B. **Uses Subject to an Administrative Use Permit.** As specified for temporary use of a manufactured home or recreational vehicle ([Chapter 34](#)), or in [Article 5](#), the Sign Ordinance for banners, and other temporary signs.
- C. **Permit Application and Procedures.** The following procedures shall be followed in processing a request for an [AUP](#):
1. ***Application.*** The Building Official shall prepare and issue application forms and lists as necessary that specify the information that will be required from applicants for projects requiring an [AUP](#).
 2. ***Review and Approval.*** The review and approval process shall be established by the Building Official.

11-70-4: Temporary Use Permit

- A. **Temporary Use Permit (TUP).** A TUP is a discretionary authorization for certain uses that are intended to be of limited duration and will not permanently alter the character or physical facilities of the site where they occur.
- B. **Uses Subject to Temporary Use Permits.** Uses for which a Temporary Use Permit is available are established in [Chapter 31](#) Standards for Specific Uses and Activities.
- C. **Permit Procedures.** In addition to the applicable requirements and procedures provided in [Chapter 67](#), Common Procedures, the following specific procedures apply:
1. ***Application.*** The application for a TUP must be submitted to the [Zoning Administrator](#) for approval not less than 45 days before the use is intended to begin.
 2. ***Determination.*** The [Zoning Administrator](#) shall render a written decision after City receipt of a completed application.
 3. ***Required Findings.*** The [Zoning Administrator](#) may approve an application for a TUP only upon determining that all of the following conditions are met by the application:
 - a. The proposed use will not unreasonably affect or have a negative impact on adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or the general welfare of the City

- b. The proposed use is consistent with land uses permitted by the zoning district within which the site is located, and land uses consistent with the [General Plan](#) land use designation of the site;
- c. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas; and
- d. Appropriate controls are in place that will ensure the premises will be kept clean, sanitary, free of litter, and all pedestrian and vehicle circulation and parking will occur on a suitable dust-controlled surface.

D. Conditions of Approval.

1. A temporary use permit may not exceed 2 years in duration. The [Zoning Administrator](#) may impose time limits of less than 2 years where warranted by the request, or the site conditions, or impacts on adjacent properties. The [Zoning Administrator](#) may not renew a [Temporary Use Permit](#) more than once. The length of the renewal is at the discretion of the [Zoning Administrator](#), but in no case shall the renewal exceed a single additional 2 year period.
2. In the event a [Temporary Use Permit](#) has been renewed once by the [Zoning Administrator](#), subsequent requests for renewal of the Temporary Use Permit shall be directed to the attention of the [Board of Adjustment](#) for review and consideration. In considering the extension, the Board may approve or deny the request. If approved, the [TUP](#) may be extended no more than one time by the Board, and for no longer than 2 years. Upon expiration of a [TUP](#) extended by the [Board of Adjustment](#), then all development of the property shall be improved to comply with all requirements of this Ordinance in place at the time the Temporary Use Permit expires.
3. In approving a Temporary Use Permit, the [Zoning Administrator](#), or [Board of Adjustment](#) when considering renewals, may impose reasonable conditions deemed necessary to achieve the findings for a [Temporary Use Permit](#) listed above. The conditions may include, but need not be limited to: regulation of vehicular ingress and egress and traffic circulation; regulation of dust control surfaces; regulation of lighting; regulation of hours of operation; submission of final plans to ensure compliance with conditions of approval, and such other conditions as the [Zoning Administrator](#) or [Board of Adjustment](#) may deem appropriate.

11-70-5: Special Use Permit

- A. **Special Use Permit (SUP).** A SUP is a discretionary permit issued by the [Zoning Administrator](#) or [Board of Adjustment](#).
- B. **Uses Subject to Special Use Permits.** Uses requiring a SUP are established in the use tables in [Chapters 4 through 11](#).
- C. **Permit Requirements.** Permit requirements for some uses requiring a SUP are provided in [Chapter 31](#), Standards for Specific Uses and Activities.
- D. **Permit Application and Procedures.** The procedures for review and consideration of a SUP are as provided in the [Chapter 67](#), Common Procedures, except a citizen participation plan and report is not required.
- E. **Required Findings.** A SUP shall only be granted if the approving body determines that the project as submitted or modified conforms to all of the following criteria. If it is determined that it is not possible to make all of the required findings, the application shall be denied. The specific basis for denial shall be established in the record.
1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the [General Plan](#) and any other applicable City plan and/or policies;
 2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the [General Plan](#) and with any other applicable City plan or policies;
 3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and
 4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.
- F. **Revocation of Special Use Permits.** A Special Use Permit granted pursuant to this Chapter may be suspended, revoked, or modified by the [Zoning Administrator](#), after holding a public hearing to determine whether any condition, stipulation, or term of the approval of the Use Permit has been violated. At least 30-days notice shall be public hearing, and all of the noticing and hearing requirements of [Chapter 67](#) shall apply.

11-70-6: Council Use Permits

- A. **Council Use Permits (CUP).** A CUP is a discretionary permit issued by the City Council after review and recommendation by the [Planning & Zoning Board](#).

[Return to Page 1](#)

- B. **Uses Subject to Council Use Permits.** Uses requiring a CUP are established in the use tables in [Chapters 4 through 11](#).
- C. **Permit Application and Procedures.** The procedures for review and consideration of a CUP are as provided in the [Chapter 67](#), Common Procedures.
- D. **Review Criteria.** A CUP shall only be granted if the approving body determines that the project as submitted or modified conforms to all of the following criteria. If it is determined that it is not possible to meet all of the review criteria, the application shall be denied. The specific basis for denial shall be established in the record.
1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the [General Plan](#) and any other applicable City plan and/or policies;
 2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the [General Plan](#) and with any other applicable City plan or policies;
 3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area of the proposed project or improvements in the neighborhood or to the general welfare of the City; and
 4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.
- E. **Revocation of Council Use Permits.** Any CUP granted under this Chapter may be revoked if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith.
1. **Initiation of Proceeding.** The [City Council](#), by its own action, or following a recommendation from the [Planning & Zoning Board](#) or [Zoning Administrator](#), may initiate revocation proceedings.
 2. **Public Notice.** Notice that the possible revocation of the Council Use Permit has been scheduled for hearing before the City Council shall be made pursuant to the requirements of [Section 11-67-5](#), Notice of Public Hearing.
 3. **Public Hearing.** The public hearing regarding the revocation of a use permit or variance shall be conducted pursuant to requirements of [Section 11-67-6](#), Conduct of Public Hearings.
 4. **Decision of the City Council.** The City Council may revoke the [Council Use Permit](#) if it makes any of the following findings:

- a. That approval was obtained by means of fraud or misrepresentation of a material fact;
- b. That the permittee or holder of the permit has failed to initiate construction or undertake the use in question within a 1 year period following the effective date of the permit or variance;
- c. That the use in question has ceased to exist or has been suspended for 1 year or more;
- d. That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this Ordinance, law or regulation; or
- e. That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

11-70-7: Appeals; Expiration and Extension; Modification

Use permits are subject to the expiration, extension, modification and appeal provisions of [Chapter 67](#), Common Procedures and [Chapter 77](#), Appeals.